

REMARKS

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action mailed October 21, 2005. Claims 89-148 stand rejected. In this Amendment, Claims 89, 94, 99, 103-107, 115, 120-122, 126, 131, 134, 137 and 138 have been amended. Claims 90, 95, 100-102, 116-118, 133, 136 and 139-148 have been canceled without prejudice. No new matter has been added.

35 U.S.C. 119 Benefit of Earlier Filing Date

Applicant has amended the first sentence of the specification to specify the priority information for the present application.

Applicant has previously submitted this priority information within the time period set forth in 37 C.F.R. 1.78(a). In particular, on April 11, 2004, when filing the present patent application, Applicant submitted the priority information on the Preliminary Amendment filed with the patent application. The benefit claimed was recognized by the Patent Office as shown on the first Filing Receipt, a copy of which is enclosed herein for the Examiner's convenience. Accordingly, Applicant is not required to submit a petition under 37 C.F.R. 1.78(a) or the surcharge under 37 C.F.R. 1.17(t).

Applicant hereby requests reconsideration of Applicant's claim for benefit under 35 U.S.C. 119.

Information Disclosure Statement

The Applicant has submitted copies of cited documents filed in the Information Disclosure Statement on April 11, 2001. It is respectfully requested that the cited documents be

considered and that the enclosed copy of Information Disclosure Citation Form PTO-1449 be initialed by the Examiner to indicate such consideration and a copy thereof returned to the Applicant.

Claims

The Examiner objected to claim 126 for minor informalities. Claim 126 has been amended to remove the informalities.

Claims 89, 92-94, 97 and 98 are rejected under 35 U.S.C. §102(e) as being anticipated by Fisher, et al., (U.S. Patent No. 5,835,896, hereinafter "Fisher"). Claims 99-130, and 139-148 are rejected under 35 U.S.C. §102(e) as being anticipated by Fraser, et al., (U.S. Patent No. 5,905,974, hereinafter "Fraser"). Claims 90, 91, 95, 96 and 131-138 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fisher, in view of Fraser. As discussed below, the pending claims are patentable over the above references.

Fisher discloses a system for conducting a multi-person, interactive auction. The system allows a group of bidders to interactively place bids over a computer or communications network. Those bids are recorded by the system and the bidders are updated with the current auction status information. When appropriate, the system closes the auction from further bidding and notifies the winning bidders and losers as to the auction outcome.

Contrary to the presently claimed invention, Fisher does not teach or suggest at least setting a bid status of a lot to a pending status at the closing time defined for the lot. The Examiner acknowledges that Fisher does not teach or suggest having a pending status for a lot and cites Fraser for such teaching (Office Action, page 18). Applicant respectfully disagrees.

Fraser discloses having "pending bids" and "pending offers." However, these pending bids and offers are defined as bids and offers entered into the system by market makers while

waiting for an execution as the market matures (Fraser, col. 9, lines 40-45). That is, in Fraser, the pending bids and offers take place when the market is open for bids, i.e., has an open status. Thus, similarly to Fisher, Fraser does not teach or suggest "setting said bid status to a pending status for said lot at said closing time," as recited in claim 89. This language is also included in independent claims 94, 99, 115, 131, 134, 137 and 138.

Accordingly, the present invention as claimed in claims 89, 94, 99, 115, 131, 134, 137 and 138, and their corresponding dependent claims, is patentable over the cited references taken alone or in combination. Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. §§102(e) and 103(a), and submits that the pending claims are in condition for allowance.

DEPOSIT ACCOUNT AUTHORIZATION


Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

Respectfully submitted,

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